

**OPINION
66-204**

December 6, 1966 (OPINION)

Honorable Wallace E. Warner

Securities Commissioner

RE: Securities - Registration - Exemption of Small Business Investme

This is in response to your letter in which you ask for a formal opinion on the question whether or not a corporation organized under chapter 10-30 of the North Dakota Century Code may sell securities to the public without first complying with the provisions of chapter 10-04 of the North Dakota Century Code. As background information you forwarded for our consideration a letter written by Mr. William J. Daner, addressed to you and dated November 23, 1966.

Chapter 10-30 of the North Dakota Century Code came into being by chapter 105 of the 1963 Session Laws. This Act sets forth in detail, to some degree, how a development corporation may be formed. It also sets forth in specific language the investments in which the corporation may invest its funds. In some respects it provides for a special type corporation. Nevertheless regulations which are not specifically covered by chapter 10-30 are by its provisions governed by the statutes relating to standard corporations, chapters 10-09 through 10-23 of the North Dakota Century Code.

There is no specific provision in chapter 10-30 which exempts transactions or securities of the corporation organized thereunder from the provisions of chapter 10-04.

It is an acknowledged and recognized principle of law that exceptions or exemptions from the regulatory statutes adopted under the police powers of the state are strictly construed. Thus, if any exceptions or exemptions exist they must be found in the Securities Act, chapter 10-04.

Section 10-04-05 of the North Dakota Century Code sets forth which securities are exempt from the Securities Act and only those mentioned therein would be exempt. No information is given to the type of securities the development corporation might issue and neither do the statutes cover this phrase.

Section 10-04-06 of the North Dakota Century Code sets forth which transactions are exempt. Again chapter 10-30 does not set forth the specific transactions of the corporation and neither are we informed of the transactions in which the corporation may be engaged.

It is also observed that both sections 10-04-05 and 10-04-06 were amended after the adoption of chapter 10-30. No specific provision is made to exclude either transactions or securities of a corporation organized under chapter 10-30.

Thus in direct response to your question, it is our opinion that only those transactions or securities of a corporation organized under

chapter 10-30 which come within the provisions of sections 10-04-05 and 10-04-06 of the North Dakota Century Code are exempt. It is our further opinion that chapter 10-30 does not provide either by specific language or by construction for any exemption to chapter 10-04, the Securities Act.

HELGI JOHANNESON

Attorney General